IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO. 4591 OF 2002

IN

FIRST APPEAL NO. 312 OF 2003

SUKUMARAN KRISHNAN .. APPELLANT

Versus

MUNICIPAL CORPN. OF GR. BOMBAY .. RESPONDENTS

Mr. M. S. Menon for appellant

Mr. J. Xavier for BMC

CORAM:-SMT. RANJANA DESAI, J.

DATED:-11-2-2005

P.C.

The appeal having been admitted, the question is of interim relief. It is prayed in the civil application that pending the hearing and final disposal of the appeal, defendants/respondents be restrained by an order and injunction of this Court from removing and/or demolishing the suit premises

situate at Gala No. 1, Ganesh Nagar, previously known as Sambhaji Nagar, near Western Express Highway, Akurli Road, Kandivali (E), Mumbai, or any part thereof.

2. Admittedly the appellant took out Chamber Summons for amending the plaint to bring on record the fact of alleged demolition of the loft and the 1st floor by the respondents. In the plaint prayer (b-i) was added which reads as under:

> The defendant their servants, agents, representatives be directed by the mandatory order and injunction of this Hon'ble Court to reconstruct the loft of the suit premises and first floor having been demolished, more specifically stated in the notice.

3. Obviously, therefore, the grievance of the appellant is that the respondents have demolished the loft and the 1st floor. Therefore, the interim order which can be passed in this appeal is only that the parties should maintain status quo during the pendency of the appeal i.e. the premises which are as per the appellant's own contention just a ground floor structure should be kept as they are.

4. Mr. Xavier, learned advocate for B.M.C. has shown photographs

taken on 9/3/2004 of the suit structure. Rightly so the photographs show only the ground floor structure. Photographs are taken on record. Hence during the pendency of the appeal the ground floor structure should be maintained as it is. Since these photographs are coming from the respondent B.M.C., it is better that the appellant's advocate also submits in this court the photograph of the suit premises as it stands today so that proper order can be passed. The learned advocate for the appellant shall produce photograph of the suit premises in this court on Tuesday 15/2/2005.

5. This matter shall appear first on board on 15/2/2005.

.....